Filed 5/16/19 P. v. Green CA4/3

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE, Plaintiff and Respondent, v. ARMANI MONTRALE GREEN, Defendant and Appellant.	G055967 (Super. Ct. No. 17CF1135) O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Thomas M. Goethals, Judge. Affirmed.

Marta I. Stanton, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, A. Natasha Cortina and Lynne G. McGinnis, Deputy Attorneys General, for Plaintiff and Respondent.

* * *

INTRODUCTION

Defendant Armani Montrale Green appeals from the judgment of conviction entered after a jury found him guilty of committing human trafficking with a minor, pimping a minor, and pandering with a minor over 16 years old. Green argues the trial court abused its discretion, and thereby violated his constitutional rights, by excluding evidence pursuant to Evidence Code sections 1161, subdivision (b) and 352 showing the minor's prior prostitution activities.[1] Green also argues the trial court erred by failing to exclude evidence of sexually suggestive photographs of the minor that she sent to Green while messaging him on Facebook, under section 352.

We affirm. Neither of the trial court's evidentiary rulings constituted an abuse of discretion. Because Green did not show any error, we reject his argument he was prejudiced by cumulative error.

FACTS

In early 2017, 17-year-old H.P. ran away from her home in Northern California to live with her biological mother in San Bernardino. Sometime around April 2017, Green messaged H.P. on Facebook.[2] H.P. first met Green in person outside a liquor store when Green, who was sitting in a car, called H.P. over to him. Green and H.P. talked and exchanged their Facebook contact information. H.P. testified that she liked Green and thought he was cute. They communicated through Facebook on which platform Green used the name "Jersey Jers."

One night, Green picked up H.P. and they went to his house where she stayed the night. Green told H.P. that he wanted her to "work" for him; H.P. understood Green to mean that she would work for him as a prostitute. Green told H.P. she would

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[1] All further statutory references are to the Evidence Code unless otherwise specified.

[2] H.P. did not elaborate regarding the circumstances leading up to Green originally messaging her. She did state that Green was the first to "hit her up" on Facebook.

make fast money and that he would take care of her. He told her to charge $100 and up for "everything," which meant vaginal intercourse. He showed her how to post an advertisement, using an Amazon card to pay for it, to solicit prostitution services on websites like Backpage,[3] Craig's List, or Plenty of Fish (P.O.F.), including how to post pictures and descriptions of her age and location.

H.P. took pictures of herself, some wearing only a bra and panties, which she showed to Green; he directed her to post them online. Her advertisements would include an e-mail address and a phone number. H.P. testified that she would wait for customers to call and text and then she would either go to the customer or the customer would come to her at a hotel. Green bought condoms for her and the clothing she was to wear. He decided "the look" she should have and would approve outfits she would show him. Green saved his contact information in H.P.'s phone under the name "The Great."

H.P.'s testimony regarding the extent of her prostitution services in connection with Green was vague and sometimes inconsistent. On the one hand, she testified that she did not make money through her online advertisements. Instead, she secured a "date," which she explained meant meeting someone and having sex with him for money, by walking certain streets, known as the "track" or the "blade," and attracting customers driving by. On the other hand, she testified that Green would drop her off to meet clients.

H.P. initially testified that she only worked for Green one night during which she had four or five dates, all of which occurred in Santa Ana. She testified she did not have sex with clients for Green before they went to Santa Ana. After they went to Santa Ana, she called Green "Daddy," which is a term used to refer to someone who is a

[3] Backpage.com is an online advertising service that has been investigated by the federal government for facilitating sex trafficking. (See *Senate Perm. Subcomm. on Investigations v. Ferrer* (D.C. Cir. 2017) 856 F.3d 1080.)

pimp. She stated that her four or five dates while working for Green earned her about $600.

H.P. later testified that she worked on the track for Green for two or three nights. She testified that before Santa Ana, she went on a date at a San Bernardino hotel; Green had dropped her off there. She also testified she drove to Los Angeles with Green and two others where she walked the track with another female. She could not remember how many times she had sex for money there, but testified she gave all the money she made to Green. She stated she worked in Los Angeles that night for three or four hours (until 1:00 or 2:00 a.m.), walking up and down the street until someone stopped and she was able to negotiate a price with that person. She would then perform sex acts in the client's car. Green set a $300 to $500 "goal" for her to earn before he would pick her up after walking the track. While H.P. was working, she communicated with Green by texting; Green instructed her to delete texts "in case anything happened" as the texts would evidence prostitution activities.

After the night H.P. worked for Green in Los Angeles, she went to Orange County with Green and the same two people who traveled with her to Los Angeles. H.P. and the other female walked Harbor Boulevard in Santa Ana which is a nationally known prostitution corridor. H.P. made $500 the first night, which she gave to Green.

The next day, May 4, 2017, H.P. returned to Orange County but this time she was only accompanied by Green, who drove her. He dropped her off in an area where two other "girls" were walking the track.

Officer Louis Barragan of the Santa Ana Police Department's vice unit was working undercover in prostitution suppression efforts that evening. At about 11:40 p.m., Barragan saw three females, one of whom was H.P., wearing revealing attire and standing on the corner or walking the street, making contact with passing lone male motorists. After observing their activity, Barragan determined the three were loitering

with the intent to commit prostitution. He ordered a marked unit to come to that location to place the three under arrest.

H.P. was transported to the police substation. After Barragan was informed that H.P. was 17 years old, he interviewed her. H.P. granted Barragan access to her cell phone. Barragan inspected the phone and saw H.P.'s past text messages and messages through Facebook that were "indicative of pimp and prostitute" communications. The communications included discussions about where she was and her finishing a date as well as a query about how much money she made. H.P. addressed her cell phone contact identified as "The Great," who was later determined to be Green, as "Daddy." Barragan testified that it is a consistent practice for pimps to not use their real names to avoid being identified and instead to use self-aggrandizing monikers.

Barragan, posing as H.P., used H.P.'s cell phone to communicate through the Facebook messenger application with Green who was identified on Facebook as "Jersey Jers." Barragan began the conversation by asking Green "Wya," meaning, "where you at" to which Green responded, "Ducked off U ok?" Barragan messaged Green, "Can u pick me up?" Green responded, "From where What happens," and asked why H.P. was not answering her phone. Barragan messaged "711" implying that H.P. was at the nearby 7-Eleven store. Green asked why she was over there and told her to "walk." Barragan testified that in his experience, it was common for pimps to have a designated pick-up spot for their prostitutes because they do not want to be seen in the prostitution corridor picking up a prostitute. Eventually, Green questioned why H.P. was forwarding his calls and messaging him on Facebook; he instructed her to text him. Meanwhile, Barragan and his partner were driving around the area with H.P. trying to find Green.

Barragan switched from Facebook messenger to texting Green as the contact "The Great" on H.P.'s cell phone while continuing to pose as H.P. in his continued effort to communicate with Green and locate him. Barragan texted, "On a date

80," to communicate that H.P. had completed a date for which she earned $80. Green texted back that H.P. should be careful because there was a lot of police activity in the area. Barragan asked Green, "Can u pick me up?" Green responded, "It's too hot, I just told u." Green texted asking H.P. where she was. Barragan texted, "I'm hiding by the strip bar." Green asked why H.P. was hiding and Barragan texted back that there were some "krazy m-f-k-e-r-s out here trynna take my money." Barragan also texted that H.P. was scared; Green responded that he was not coming to get her. Green tried to call H.P.'s phone but Barragan did not answer. Green texted, "Figure it out since u are not answering the phone."

To buy time, given that Barragan did not want to blow his cover by answering H.P.'s cell phone and talking to Green, Barragan texted Green the word "date" to inform Green that H.P. was on another date. Barragan eventually allowed H.P. to answer a telephone call from Green. During the call, Green told H.P. she should not answer her phone because the police were nearby. Green asked H.P. how much she had made. H.P. told Green that she had earned $120 and asked Green to pick her up. Green told her he would come get her after she earned $300.

H.P. admitted at trial that she was not completely truthful when she spoke with Barragan. H.P. initially provided false information regarding the description of Green's car and she denied knowing Green's name. H.P. told Barragan she had never worked as a prostitute and that "this" was her "first time." She also stated that she gave Green "half" of her earnings.[4] H.P. eventually provided an accurate description of Green's car and admitted "The Great" and Jersey Jers were one in the same person and that that person brought her to Santa Ana.

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[4] Barragan testified that H.P.'s untruthful and nervous behavior was consistent with that of a potential trafficking victim, based on his training and experience. He also testified that the telephone is the first line of communication between prostitutes and pimps for updates and advice and that all money earned by a prostitute is given to her pimp.

Barragan eventually found Green sitting alone in a car spotted by H.P. Using H.P.'s cell phone, Barragan dialed the number for "The Great" and Green's cell phone rang and showed H.P.'s first name as the one calling his phone. H.P.'s purse, containing her wallet with identifying information including her social security card and high school identification card, clothes, and other personal items were found in the trunk of the car. Green had several tattoos associated with the state of New Jersey. After he was read his *Miranda*[5] rights, Green denied knowing H.P.

PROCEDURAL HISTORY

Green was charged in an amended information with (1) human trafficking of a minor in violation of Penal Code section 236.1, subdivision (c)(1) (count 1); (2) pimping a minor in violation of Penal Code section 266h, subdivision (b)(1) (count 2); (3) pandering with a minor over 16 years old by procuring in violation of Penal Code section 266i, subdivisions (a)(1) and (b)(1) (count 3); and (4) misdemeanor driving of a motor vehicle without a valid license in violation of Vehicle Code section 12500, subdivision (a) (count 4). The amended information further alleged, pursuant to Penal Code section 667.5, subdivision (b), that, prior to the commission of the charged offenses, Green had been convicted of a felony for which he served a prior prison term.

The jury found Green guilty of counts 1 through 3.[6] The trial court found the prior prison term sentencing enhancement allegation not true. The trial court imposed a total prison sentence of eight years. Green appealed.

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[5] *Miranda v. Arizona* (1966) 384 U.S. 436.

[6] Count 4 was dismissed after the trial court granted the prosecution's motion to dismiss that count.

DISCUSSION

Green challenges two of the trial court's evidentiary rulings. We review the trial court's evidentiary rulings for abuse of discretion (*People v. Davis* (2009) 46 Cal.4th 539, 602) and conclude neither constituted an abuse of discretion.

I.
THE TRIAL COURT DID NOT ERR BY EXCLUDING H.P.'S PRIOR PROSTITUTION HISTORY UNDER SECTION 1161, SUBDIVISION (B).

Green argues that the trial court violated his federal and state constitutional rights to due process, confrontation, and to present a defense by applying section 1161, subdivision (b) to exclude from trial evidence of H.P.'s prior prostitution experience.[7] For the reasons we explain, Green's argument is without merit.

Section 1161 provides: "(a) Evidence that a victim of human trafficking, as defined in Section 236.1 of the Penal Code, has engaged in any commercial sexual act as a result of being a victim of human trafficking is inadmissible to prove the victim's criminal liability for the commercial sexual act. [¶] (b) Evidence of sexual history or history of any commercial sexual act of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, is inadmissible to attack the credibility or impeach the character of the victim in any civil or criminal proceeding."

Penal Code section 236.1, subdivision (c) provides: "A person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking. A violation of this subdivision is punishable by imprisonment in the state prison as follows: [¶] (1) Five, 8, or 12 years and a fine of not more than five hundred thousand dollars ($500,000). [¶] (2) Fifteen years to life and a fine of not more than five hundred

[7] Green does not argue that section 1161, subdivision (b) is facially unconstitutional.

thousand dollars ($500,000) when the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person."

In the People's trial brief, the prosecutor argued: "[T]he People anticipate that the defense will attempt to introduce evidence on cross examination of the People's witnesses that the victim engaged in commercial sex acts before working for the defendant and even after the defendant was arrested on this case. Any such evidence is irrelevant and specifically inadmissible pursuant to section 1161(b) of the Evidence Code if offered to attack the credibility of the victim. As such, the People request that any such impeachment be excluded."

At a pretrial hearing, defense counsel argued that he would be "arguing ineffective right to exercise my cross-examination rights" if section 1161, subdivision (b) was applied. The trial court informed counsel that the court was bound by *People v. Brown* (2017) 14 Cal.App.5th 320 and its holding that section 1161, subdivision (b) was not unconstitutional as *People v. Brown* was the only published opinion on the subject. Defense counsel acknowledged that he was on notice about the *People v. Brown* case and its potential relevance in the unlikely event H.P. were to testify at trial. The court ordered both parties not to talk about that issue in the presence of the jury and directed counsel to bring the issue up to the court for further discussion if the need arose.

H.P. was called to testify at trial. During her direct examination, the trial court met with counsel outside the presence of the jury with regard to section 1161, subdivision (b)'s application to the case. H.P.'s testimony regarding her prostitution activities for Green came as a surprise to defense counsel and the court. The trial court asked about defense counsel's opening statement in which he asserted as part of the defense that H.P. was not a prostitute at all. Defense counsel acknowledged that given H.P.'s trial testimony, his "opening statement is trash" and that he would "have to punt and go in a different direction." Defense counsel then stated: "What immediately

became apparent is this lady surfaced in the Calhoon case, a human trafficking case. And there is a boatload, maybe 100 different text messages coming from her to a pimp by the name of Mr. Calhoon who has been convicted. And that was one of the items that was introduced during the course of [that] trial." The trial court asked how that evidence related to H.P. Defense counsel stated he did not know, but argued "the strong insinuation is that she is a little naïve little girl that ran away . . . [who] was easily led, easily manipulated." The court stated, "Maybe. You don't know for sure." Defense counsel agreed, "No." Defense counsel stated he was letting the court know he was going to be working on that angle during cross-examination.

The trial court concluded the discussion by stating, "The way this case is going, I still see what [section] 1161 says and I am not saying that [section] 1161 doesn't apply. I think its public policy restrictions may still apply but I am concerned about a statutory restriction on a constitutional right. A statutory restriction can never outweigh a constitutional right to confront and cross-examine a witness." The court added: "I am modifying my complete ban on the possibility of any [section] 1161-type evidence being appropriate for cross-examination, as I have suggested. I am not suggesting that I don't think [section] 1161 still has application. I am not suggesting that I think [section] 352, for example, still doesn't have application. But I am suggesting that I think the general area, in light of the way this case has developed, my view of the admissibility of evidence potentially is evolving just as this witness' testimony is evolving. [¶] I think it is relevant and the 6th Amendment says areas that you have gone into directly or inferentially they get to cross-examine on. I think that's where we are." The court stated it would give defense counsel "some leeway with respect to direct impeachment evidence that might be adduced during cross-examination of this very witness" but told the prosecutor that he should object if he thought something was objectionable. When H.P. resumed the stand, she testified that she never prostituted for anyone before she prostituted for Green and that while she knew John Calhoon, she never prostituted for him.

Later in the trial, defense counsel informed the court that he had exhibits of e-mails from the Calhoon case that he wished to show H.P. that indicate she engaged in additional prostitution activity. The trial court reminded counsel that H.P. testified that she never worked as a prostitute for Calhoon.

Defense counsel explained that "one of [his] pitches now [was] she is just basically a renegade and independent contractor." The trial court asked how counsel was going to authenticate the proffered documents and prove H.P. was one of the declarants in the documents. Defense counsel stated he expected to be able to confront H.P. with the document and if she denied it, he agreed he would be out of luck.

The trial court stated it had a problem "under [section] 352 with [counsel's] inability apparently to deal with these documents to authenticate them" if H.P. were to deny that she was the person involved or deny their content. The court stated it was not "altogether clear on what the impeachment [wa]s [that counsel was] seeking" and asked, "What are you trying to impeach? What point in her testimony do you believe this impeachment would relate to?" Defense counsel answered that he was trying to show H.P. was "a renegade that works independently."

The trial court followed up by asking defense counsel for an example of something in the proffered materials that showed H.P. was not working under a pimp's or panderer's supervision. In response, defense counsel read the following statement he believed was written by H.P.: "Why would you all be on your way when I just said I am making money moves. I am not a Brentwood. I know how long going to take me, but I will let you know when. I will be back in the meantime. You all need to be making some money." The court asked what about that statement suggested H.P. was not working with a pimp. Defense counsel confirmed it was because H.P. did not mention a pimp. The prosecutor raised concerns the admissibility of such evidence implicated section 352.

The trial court ultimately ruled that defense counsel could ask H.P. whether she recognized the documents from the Calhoon case. The court stated pursuant to the Sixth Amendment to the United States Constitution, the court would allow defense counsel to inquire about those portions of H.P.'s testimony that were inconsistent. The court continued: "But there is a limitation under [section] 352 on how probative that's going to be. I am inclined to give you about another half an hour to cross-examine this witness. And you can use some of that time, if you choose strategically and tactically to do so, to ask her whether or not she recognizes those documents that you have just quoted from . . . this Calhoon case that we have been talking about." Defense counsel completed his cross-examination of H.P. without asking about the Calhoon documents.

Green does not argue the trial court violated section 1161, subdivision (b) in ruling on the admissibility of evidence of H.P.'s prior prostitution activities. Instead, he argues that the application of that statute to exclude such evidence resulted in a violation of his constitutional rights. He argues the trial court's exclusion of the impeaching documents from the prior case prejudiced him because H.P.'s testimony denying prior prostitution activity "creat[ed] a false aura of innocence" in a case in which the "critical issue . . . was whether [Green] merely helped [H.P.] rather than persuaded her to be a prostitute." Green further argues: "The principal issue at trial was whether the prosecution's crucial witness was credible." We assume for purposes of our analysis that Green's constitutional challenge to the application of section 1161, subdivision (b) in this case was properly preserved at trial for appeal and we therefore do not consider Green's alternative argument his trial counsel was ineffective in preserving this argument.

"'[T]he right of confrontation and cross-examination is an essential and fundamental requirement for the kind of fair trial which is this country's constitutional goal. Indeed, . . . to deprive an accused of the right to cross-examine the witnesses against him is a denial of the Fourteenth Amendment's guarantee of due process of law.'"

(*People v. Wilson* (2008) 44 Cal.4th 758, 793.) "The constitutional right of confrontation includes the right to cross-examine adverse witnesses on matters reflecting on their credibility." (*People v. Szadziewicz* (2008) 161 Cal.App.4th 823, 841-842.)

"'[But i]n the exercise of this right, the accused, as is required of the State, must comply with established rules of procedure and evidence designed to assure both fairness and reliability in the ascertainment of guilt and innocence.'" (*People v. Ayala* (2000) 23 Cal.4th 225, 269.) "[N]ot every restriction on a defendant's cross-examination rises to a constitutional violation." (*People v. Singleton* (2010) 182 Cal.App.4th 1, 18.) The "right of confrontation is not absolute, however [citations], 'and may, in appropriate cases, bow to accommodate other legitimate interests in the criminal trial process.'" (*Alvarado v. Superior Court* (2000) 23 Cal.4th 1121, 1138-1139.)

"Although the Sixth Amendment to the federal Constitution provides a defendant with the right to engage in appropriate cross-examination of witnesses, the trial court retains the ability to impose reasonable limits on counsel's inquiry if it is repetitive or marginally relevant. [Citation.] Additionally, the court's 'limitation on cross-examination . . . does not violate the confrontation clause unless a reasonable jury might have received a significantly different impression of the witness's credibility had the excluded cross-examination been permitted.' ([Citation]; see *People v. Linton* (2013) 56 Cal.4th 1146, 1188 . . . [court '"retains wide latitude in restricting cross-examination that is repetitive, prejudicial, confusing of the issues, or of marginal relevance"'].)" (*People v. Williams* (2016) 1 Cal.5th 1166, 1192; see *People v. Greenberger* (1997) 58 Cal.App.4th 298, 350 ["Exclusion of impeaching evidence on collateral matters which has only slight probative value on the issue of veracity does not infringe on the defendant's right of confrontation"].) "Application of 'the ordinary rules of evidence do[es] not impermissibly infringe on the accused's right to present a defense.'" (*People v. Westerfield* (2019) 6 Cal.5th 632, 705; see *People v. Lucas* (1995) 12 Cal.4th 415, 464

[proper application of the statutory rules of evidence generally does not impermissibly infringe upon a defendant's due process rights].)

"In particular, notwithstanding the confrontation clause, a trial court may restrict cross-examination of an adverse witness on the grounds stated in Evidence Code section 352." (*People v. Quartermain* (1997) 16 Cal.4th 600, 623.) "'[T]he Confrontation Clause guarantees an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish. [Citation.]' [Citations.] The confrontation clause allows 'trial judges . . . wide latitude . . . to impose reasonable limits on . . . cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant.' [Citation.] In other words, a trial court may restrict cross-examination on the basis of the well-established principles of Evidence Code section 352, i.e., probative value versus undue prejudice. [Citation.] There is no Sixth Amendment violation at all unless the prohibited cross-examination might reasonably have produced a significantly different impression of credibility." (*People v. King* (2010) 183 Cal.App.4th 1281, 1314-1315, fn. omitted; see *People v. Hillhouse* (2002) 27 Cal.4th 469, 494; *People v. Brown* (2003) 31 Cal.4th 518, 545-546.)

Here, the record shows the trial court's persistent efforts to respect Green's constitutional rights, including his Sixth Amendment right to confront witnesses, while applying the evidentiary rule codified in section 1161, subdivision (b). The evidence Green sought to admit, showing that H.P. might have been involved in prior prostitution activities with another pimp, had little probative value in this case regarding Green's efforts to cause, induce, and persuade H.P. to engage in further prostitution activities for him. It is not an element of a violation of Penal Code section 236.1, subdivision (c) that the victim have never engaged in commercial sex activity before the charged offense.

It is not evident that further cross-examination of H.P. with regard to any involvement with Calhoon or other prior prostitution activities would have resulted in creating a significantly different impression of her credibility for the jury than what was already presented. H.P.'s testimony was, at times, a moving target. Defense counsel was able to cross-examine her extensively to challenge inconsistencies in her testimony. H.P.'s credibility was not only challenged by her inconsistent testimony but also by her admissions that she repeatedly lied to police regarding a range of issues in the course of their investigation. The record establishes the trial court imposed reasonable limits on defense counsel's cross-examination of H.P. regarding prior prostitution activities after taking into account its marginal relevance, the undue consumption of time it would require, and the confusion of issues it might create, in accordance with section 352. There was no Sixth Amendment violation.

In *People v. Brown, supra,* 14 Cal.App.5th 320, which was cited by the trial court in navigating the applicability of section 1161, subdivision (b), evidence was presented to the jury that indicated the victims previously had been engaged in prostitution activities. The appellate court's explanation for rejecting the defendant's constitutional challenge to the application of section 1161, subdivision (b) in that case to exclude evidence of *details* of those prior activities is apt here: "[W]e fail to see—and defendant fails to explain—how the statute deprived defendant of any relevant evidence *in this case*. Defendant does not explain how further details about the prior prostitution history of either girl would have bolstered his defense, he merely assumes that the statute impaired his case. In short, defendant does not establish with reference to the record how he was prejudiced by the statute in this case, given the state of the evidence submitted." (*People v. Brown, supra,* 14 Cal.App.5th at p. 341.)

The application of section 1161, subdivision (b) in this case did not impair Green's defense or otherwise prejudice him. We find no error.

II.
THE TRIAL COURT DID NOT ABUSE ITS DISCRETION BY ADMITTING SEXUALLY SUGGESTIVE IMAGES H.P. SENT TO GREEN.

In his appellate opening brief, Green argues: "Over defense objection, the trial court permitted the prosecution to admit pornographic photographs of H[.P.] found on H[.P.]'s cell phone from a Facebook messenger conversation between H[.P.] and [Green]. [Citations.] The prosecution argued that the photographs were obtained from H[.P.]'s cell phone and were relevant to show H[.P.] was working as a prostitute and the photographs were used for advertisements. [Citation.] Defense counsel objected to the introduction of the photographs based on Evidence Code section 352, arguing that the inflammatory photographs were not relevant to the charges and were extremely prejudicial to [Green]. [Citation.] Defense counsel argued that the inflammatory photographs would cause the jurors to believe [Green] is in possession of a lot of pornographic images and would cause the jurors to be biased against [him]. [Citation.] The trial court ruled that the prosecution could introduce the sexually suggestive photographs over defense objection, finding that given the nature of the charges, sexually oriented evidence is highly probative and relevant."

As discussed *ante*, section 352 gives the trial court discretion to exclude evidence if its probative value "is substantially outweighed by the probability that its admission will . . . necessitate undue consumption of time or . . . create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury." To be admissible, evidence of a defendant's uncharged misconduct "must have substantial probative value that is not greatly outweighed by the potential that undue prejudice will result from admitting the evidence." (*People v. Lenart* (2004) 32 Cal.4th 1107, 1123; see *People v. Hardy* (2018) 5 Cal.5th 56, 87 ["'In general, the trial court is vested with wide discretion in determining relevance and in weighing the prejudicial effect of proffered evidence against its probative value'"].)

The trial court admitted several photographs into evidence, over Green's objections. Most of the photographs of H.P. show her wearing only a bra and panties; H.P. appears to be nude in two of the photographs. These photographs, which were shown to Green for use in H.P.'s online advertisements, were substantially probative of Green's efforts to cause H.P. to engage in prostitution activities.[8] The admission of the photographic evidence did not involve an undue consumption of time. The photographs were not so inflammatory to create a substantial danger of undue prejudice, or otherwise to confuse the issues or mislead the jury. We therefore conclude the photographic evidence's probative value was not greatly outweighed by its prejudicial impact. The trial court did not abuse its discretion by admitting that evidence.

III.

THERE WAS NO CUMULATIVE ERROR.

Green asserts he was prejudiced by cumulative error. "[A] series of trial errors, though independently harmless, may in some circumstances rise by accretion to the level of reversible and prejudicial error." (*People v. Hill* (1998) 17 Cal.4th 800, 844.) We have rejected each of Green's contentions of error on appeal for the reasons set forth *ante*. Therefore, there was no cumulative error.

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[8] In his opening appellate brief, in addition to the photographs described *ante*, identified in the record as trial exhibit Nos. 2A through 2D, Green cites several other images (trial exhibit Nos. 2E, 2F, 2G, 2H, 3, 4, and 6). Trial exhibit Nos. 2E through 2H are screenshots of messages exchanged between Jersey Jers and H.P. and thus appear to be unrelated to Green's argument that pornographic images were admitted at trial. Trial exhibit Nos. 3, 4, and 6 were not designated as exhibits to be reviewed on appeal by any party, pursuant to the Rules of Court, rule 8.224. The record, however, describes these images as constituting a photograph of H.P. wearing a black dress, a photograph of Green and H.P. in which she is wearing the same black dress that was taken before she went out on the track, and a screen shot of a photograph of H.P. with the words "crown me bitch" that H.P. testified she typed onto the photograph because her "earrings had crowns on it." Nothing in the record suggests trial exhibit Nos. 3, 4, or 6 contained sexually explicit or suggestive images and thus are also not relevant to Green's argument that pornographic images were admitted at trial in violation of section 352.

DISPOSITION

The judgment is affirmed.

FYBEL, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

ARONSON, J.